

**Minutes  
Personnel Policy Board  
December 19, 2014  
9:30 a.m.**

Members Present: Ted Smith, Chair; Hon. Gail Hagerty; Susan Hoffer; Hon. James Hovey; Petra Mandigo Hulm; Hon. Lisa Fair McEvers; and Ross Munns

Members Absent: Rod Olson

Others Present: Amy Klein, Staff  
Renee Barnaby, Minutes

Chair Smith called the meeting to order at 9:30 a.m.

**Minutes**

**It was moved by Justice McEvers, seconded by Petra Hulm, to approve the October 3 and October 23, 2014 meeting minutes subject to the correction of the typographical errors. The motion carried.**

**Sick Leave Policy**

The proposed changes to section D.3.d. of the Sick Leave policy were sent out for comment. No comments were received. **It was moved by Judge Hagerty, seconded by Susan Hoffer, to forward the policy to the Supreme Court for consideration. The motion carried.**

**Lawsuits Against Employees Policy**

Sally Holewa said the current policy provides a method for employees to seek assistance when a civil suit is filed against an employee as a result of their employment with the court system. The policy provides assistance to the employee as well as protection for the court. She said there have been situations when employees are called to testify as a witness or give a deposition when they are not the actual defendant in the case. The proposed amendment to the policy includes those types of situations.

Petra Hulm suggested changing the word from “filed” to “commenced” because a lawsuit is commenced upon service.

Judge Hagerty stated an appearance may be required because of some action that is taking place in a lawsuit which has been commenced but the lawsuit does not require the appearance.

Ms. Holewa explained one of the circumstances that came up recently involved a juvenile case where they wanted the notes from that incident and called the juvenile court officer to appear for a deposition. She said part of the issue is there is a confidentiality piece where the juvenile court officer cannot release the information absent a court order and questioned if they should have

legal counsel. Ms. Holewa said the situation comes up very frequently with human services workers, and they always send someone to represent the state and make the legal argument on behalf of the employee. Chair Smith added that he sent an email to the Department of Human Services asking if they have a policy, but he has not yet received a response.

Justice McEvers stated before she left Cass County, she experienced some situations where the parties are trying to bring things over into the divorce from the juvenile court action and it can get to be quite complicated.

Judge Hovey questioned if there was a similar policy for criminal actions where someone is called to testify or called to a deposition in a criminal matter.

It was the consensus of the Board to request assistance from Mike Hagburg in drafting the appropriate language for review at the next meeting. Judge Hagerty suggested Scott Johnson also be involved in the drafting process. She said it may be beneficial to contact the employees around the state to find out the situations they are facing.

#### **Review Proposed Changes to the Personnel Records Policy**

Amy Klein said the proposed amendment to the Personnel Records policy is intended to clarify that personnel records are accessible without the consent of the employee or a court order or subpoena.

**It was moved by Judge Hagerty, seconded by Ross Munns, to adopt the proposed changes.**

Petra Hulm said an employee has suggested the following language be added as section E.3.d: “When an employee’s personnel file has been accessed by an individual who is not an employee of the court system, the employee must be notified by the human resources director.” Ms. Hulm said the proposed language would only apply to someone outside of the court system, thus no notification would be given to an employee if a supervisor or someone in the court system requested to see a file.

**Judge Hagerty amended the motion to include the proposed language as section E.3.d.**

Susan Hoffer stated given the fact that there are concerns regarding individuals coming through the court system, it would be helpful to know who is requesting the information for safety purposes.

Justice McEvers said the language as proposed permits a co-worker to review an employee’s file without notification to the employee. She said on the other hand if a notification would be required, it may serve as a deterrent for people snooping in each other’s file.

**Judge Hagerty withdrew the motion.**

Sally Holewa said it is public information and requiring us to notify the employee whose file has

been accessed may have a chilling effect on people's right to request that information.

Justice McEvers stated there is a real security concern for the people working in the court system, and it is important to keep that in consideration.

Ms. Holewa suggested the policy be rewritten so it is more clear that there are three ways to access a file: a written permission from the employee; a court order or subpoena; or public access rights through public information.

Judge Hagerty suggested it would be helpful to insert the word "or" after sections (1) and (2) and then add the language that has been suggested as a new subsection. She also stated it would be helpful to project the proposed policy changes on a screen at the meetings.

**After discussion, it was moved by Judge Hagerty, seconded by Justice McEvers, to add a semicolon and the word "or" after sections E.3.a and b and to accept the changes as drafted in section E.3.c. Section E.3.a, b, and c will read as follows:**

- a. Will be granted by anyone to whom the employee has given written permission in accordance with the access-level allowed by the employee; or
- b. Will be granted without the employee's written permission to the extent that it is required by subpoena or court order; or
- c. Will be granted **limited** in all other circumstances, but limited to these records:

**The motion carried and will be sent to the Supreme Court for consideration. The policy will be brought back at the next meeting to work on language regarding access.**

Justice McEvers requested copies of the executive branch policies or county policies be included with the materials for the next meeting.

#### **Other Business**

Ross Munns received an email late in the day on December 18 from an employee requesting discussion on the election procedures for seats on the Personnel Policy Board and the possibility of adding a position on the Board for a juvenile court officer.

It was the consensus of the Board to add the item on the agenda for the next meeting.

The meeting adjourned at 10:20 a.m.